

Senate File 2306

S-5150

1 Amend Senate File 2306 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 600C.1, Code 2009, is amended  
5 by striking the section and inserting in lieu thereof  
6 the following:

7 **600C.1 Grandparent and great-grandparent visitation.**

8 1. The grandparent or great-grandparent of a  
9 minor child may petition the court for grandchild or  
10 great-grandchild visitation when the parent of the  
11 minor child, who is the child of the grandparent or the  
12 grandchild of the great-grandparent, is deceased.

13 2. The court shall consider a fit parent's  
14 objections to granting visitation under this section.  
15 A rebuttable presumption arises that a fit parent's  
16 decision to deny visitation to a grandparent or  
17 great-grandparent is in the best interest of a minor  
18 child.

19 3. The court may grant visitation to the  
20 grandparent or great-grandparent under this section  
21 if the court finds all of the following by clear and  
22 convincing evidence:

23 a. It is in the best interest of the child to grant  
24 such visitation.

25 b. The grandparent or great-grandparent has  
26 established a substantial relationship with the child  
27 prior to the filing of the petition.

28 c. That the presumption that the parent who is  
29 being asked to temporarily relinquish care, custody,  
30 and control of the child to provide visitation is fit  
31 to make the decision regarding visitation is overcome  
32 by demonstrating one of the following:

33 (1) The parent is unfit to make such decision.

34 (2) The parent's judgment has been impaired and the  
35 relative benefit to the child of granting visitation  
36 greatly outweighs any effect on the parent-child  
37 relationship. Impaired judgment of a parent may be  
38 evidenced by any of the following:

39 (a) Neglect of the child.

40 (b) Abuse of the child.

41 (c) Violence toward the child.

42 (d) Indifference or absence of feeling toward the  
43 child.

44 (e) Demonstrated unwillingness and inability to  
45 promote the emotional and physical well-being of the  
46 child.

47 (f) Drug abuse.

48 (g) A diagnosis of mental illness.

49 4. In determining the best interest of the child,  
50 the court shall consider all of the following:

1     *a.* The prior interaction and interrelationships of  
2 the child with the child's parents, siblings, and other  
3 persons related by consanguinity or affinity, compared  
4 to the child's relationship with the grandparent or  
5 great-grandparent.

6     *b.* The geographical location of the grandparent's  
7 or great-grandparent's residence and the distance  
8 between the grandparent's or great-grandparent's  
9 residence and the child's residence.

10    *c.* The child's and parents' available time,  
11 including but not limited to each parent's employment  
12 schedule, the child's school schedule, the amount of  
13 time that will be available for the child to spend with  
14 siblings, and the child's and the parents' holiday and  
15 vacation schedules.

16    *d.* The age of the child.

17    *e.* If the court has interviewed the child in  
18 chambers as provided in this subsection regarding  
19 the wishes and concerns of the child as to visitation  
20 by the grandparent or great-grandparent or as to a  
21 specific visitation schedule, the wishes and concerns  
22 of the child, as expressed to the court.

23    *f.* The health and safety of the child.

24    *g.* The mental and physical health of all parties.

25    *h.* Whether the grandparent or great-grandparent  
26 previously has been convicted of or pleaded guilty to  
27 any criminal offense involving any act that resulted  
28 in a child being an abused child or a neglected child;  
29 whether the grandparent or great-grandparent previously  
30 has been convicted of or pleaded guilty to a crime  
31 involving a victim who at the time of the commission  
32 of the offense was a member of the family or household  
33 that is the subject of the current proceeding; and  
34 whether there is reason to believe that the grandparent  
35 or great-grandparent has acted in a manner resulting in  
36 a child having ever been found to be an abused child  
37 or a neglected child.

38    *i.* The wishes and concerns of the child's parents,  
39 as expressed by them to the court.

40    *j.* Any other factor in the best interest of the  
41 child.

42     5. For the purposes of this subsection "substantial  
43 relationship" includes but is not limited to any of the  
44 following:

45     *a.* The child has lived with the grandparent or  
46 great-grandparent for at least six months.

47     *b.* The grandparent or great-grandparent has  
48 voluntarily and in good faith supported the child  
49 financially in whole or in part for a period of not  
50 less than six months.

1 c. The grandparent or great-grandparent has had  
2 frequent visitation including occasional overnight  
3 visitation with the child for a period of not less than  
4 one year.

5 6. If the court interviews any child concerning  
6 the child's wishes and concerns regarding parenting  
7 time or visitation, the interview shall be conducted  
8 in chambers, and only the child, the child's attorney,  
9 the judge, any necessary court personnel, and, in the  
10 judge's discretion, the attorney of each parent shall  
11 be permitted to be present in the chambers during the  
12 interview. A person shall not obtain or attempt to  
13 obtain from a child a written or recorded statement or  
14 affidavit setting forth the wishes and concerns of the  
15 child regarding parenting time or visitation.

16 7. For the purposes of this section, "court" means  
17 the district court or the juvenile court if that court  
18 currently has jurisdiction over the child in a pending  
19 action. If an action is not pending, the district  
20 court has jurisdiction.

21 8. Notwithstanding any provision of this chapter  
22 to the contrary, venue for any action to establish,  
23 enforce, or modify visitation under this section shall  
24 be in the county where either parent resides if no  
25 final custody order determination relating to the  
26 grandchild or great-grandchild has been entered by any  
27 other court. If a final custody order has been entered  
28 by any other court, venue shall be located exclusively  
29 in the county where the most recent final custody order  
30 was entered. If any other custodial proceeding is  
31 pending when an action to establish, enforce, or modify  
32 visitation under this section is filed, venue shall be  
33 located exclusively in the county where the pending  
34 custodial proceeding was filed.

35 9. Notice of any proceeding to establish, enforce,  
36 or modify visitation under this section shall be  
37 personally served upon all parents of a child whose  
38 interests are affected by a proceeding brought  
39 pursuant to this section and all grandparents or  
40 great-grandparents who have previously obtained a final  
41 order or commenced a proceeding under this section.

42 10. The court shall not enter any temporary order  
43 to establish, enforce, or modify visitation under this  
44 section.

45 11. An action brought under this section is subject  
46 to chapter 598B, and in an action brought to establish,  
47 enforce, or modify visitation under this section,  
48 each party shall submit in its first pleading or in an  
49 attached affidavit all information required by section  
50 598B.209.

1 12. If a proceeding to establish or enforce  
2 visitation under this section is commenced when  
3 a dissolution of marriage proceeding is pending  
4 concerning the parents of the affected minor child,  
5 the record and evidence of the dissolution action  
6 shall remain impounded pursuant to section 598.26.  
7 The impounded information shall not be released or  
8 otherwise made available to any person who is not the  
9 petitioner or respondent or an attorney of record in  
10 the dissolution of marriage proceeding. Access to the  
11 impounded information by the attorney of record for the  
12 grandparent or great-grandparent shall be limited to  
13 only that information relevant to the grandparent's or  
14 great-grandparent's request for visitation.  
15 13. A grandparent or great-grandparent shall not  
16 petition for visitation under this section more than  
17 once every two years absent a showing of good cause.  
18 14. The court shall not issue an order restricting  
19 the movement of the child if such restriction is  
20 solely for the purpose of allowing the grandparent  
21 or great-grandparent the opportunity to exercise the  
22 grandparent's or great-grandparent's visitation under  
23 this section.>

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